



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/594,577	06/15/2000	Hideaki Hosokawa	000683	8983

23850 7590 11/04/2002
ARMSTRONG, WESTERMAN & HATTORI, LLP
1725 K STREET, NW.
SUITE 1000
WASHINGTON, DC 20006

EXAMINER

NICKOL, GARY B

ART UNIT PAPER NUMBER

1642

DATE MAILED: 11/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Election/Restrictions

The amendment filed on 8-12-02 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because they present additional method steps and new limitations which were not previously considered. For example, claim 31 includes the additional step of adding to a second portion, a second protein, said second protein being one that selectively binds to a second sugar chain structure different from said first sugar chain structure, and claims 32-33 include adding a third protein and fourth protein, respectively. Furthermore, claim 36 (presented as claim 37, but rewritten as Claim 36) includes additional limitations encompassing antibodies not previously considered such as Anti-S-Le^X antibodies and Anti-S-Le^Y antibodies. Furthermore, new claims 37-42 include claims drawn to specific types of cancer (i.e., lung, liver, colon) not previously considered while claim 43 further includes the additional step of determining metastasis of bone marrow lymph not previously considered. Not only are the claims not readable on the elected invention for the reasons set forth above, but the new claims also would be subject to further restrictions since they are materially distinct methods which differ at least in objectives, method steps, reagents and/or dosages and/or schedules used, response variables, and criteria for success. Furthermore, the different types of cancer comprise distinct cell types with different morphologies and functions such that one cell type could not be interchanged with the other and would require different searches and the consideration of different patentability issues.

Art Unit: 1642

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE. However, the date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. A fully responsive reply must be timely filed to avoid abandonment of this application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary B. Nickol Ph.D. whose telephone number is 703-305-7143. The examiner can normally be reached on M-F, 8:30-5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Application/Control Number: 09/594,577

Page 4

Art Unit: 1642

Gary B. Nickol, Ph.D.
Examiner
Art Unit 1642

GBN
November 4, 2002

Gary B. Nickol